



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-201-845

Antidumping Duty Suspension Agreement on Sugar from Mexico; Administrative Review

AGENCY: Enforcement & Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the Agreement Suspending the Antidumping Duty Investigation of Sugar from Mexico (the AD Agreement) for the period December 19, 2014, through November 30, 2015 (AD review). Based upon the current record of this review, there is some indication that certain individual transactions of subject merchandise may not be in compliance with the terms of the AD Agreement, and further, that the AD Agreement may no longer be meeting all of the statutory requirements, as set forth in sections 734(c) and (d) of the Tariff Act of 1930, as amended (the Act). The Department, therefore, needs to obtain additional information in order to confirm whether the Mexican signatories subject to individual examination in this review are in compliance with the terms of the AD Agreement, and whether the current AD Agreement continues to meet the relevant statutory requirements referenced above. The preliminary results are set forth in the section titled “Methodology and Preliminary Results,” *infra*. Absent the issuance of a revised suspension agreement, we intend to issue a post-preliminary finding addressing these issues as soon as practicable. In addition, we expect to issue the final results of review within 120 days after publication of these preliminary results in the *Federal Register*.

DATES: Effective (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.)

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Julie H. Santoboni, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-0162 or (202) 482-3063.

#### SUPPLEMENTAL INFORMATION:

##### Scope of Review

Merchandise covered by this AD Agreement is typically imported under the following headings of the HTSUS: 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1000, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1010, 1701.99.1025, 1701.99.1050, 1701.99.5010, 1701.99.5025, 1701.99.5050, and 1702.90.4000. The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of this AD Agreement is dispositive.<sup>1</sup>

##### Methodology and Preliminary Results

On December 19, 2014, the Department signed an agreement under section 734(c) of the Act, with a representative of Mexican sugar producers/exporters accounting for substantially all imports of sugar from Mexico, suspending the antidumping duty investigation on sugar from Mexico.<sup>2</sup> On January 8, 2015, Imperial Sugar Company (Imperial) and AmCane Sugar LLC (AmCane) each notified the Department that they had petitioned the U.S. International Trade Commission (the ITC) to conduct a review to determine whether the injurious effects of imports

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<sup>1</sup> For a complete description of the Scope of the Order, see Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Carole Showers, Director, Office of Policy, “Decision Memorandum for Preliminary Results of Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico,” dated concurrently with and adopted by this notice (“Preliminary Decision Memorandum”).

<sup>2</sup> See *Sugar from Mexico: Suspension of Antidumping Duty Investigation*, 79 FR 78039 (December 29, 2014), at Attachment, “Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico” (the AD Agreement).

of the subject merchandise are eliminated completely by the AD Agreement (a section 734(h) review).<sup>3</sup> On January 16, 2015, Imperial and AmCane also submitted timely requests for continuation of the AD investigation.<sup>4</sup> On March 19, 2015, in a unanimous vote, the ITC found that the AD Agreement eliminates completely the injurious effects of imports of sugar from Mexico.<sup>5</sup> Subsequently, on April 24, 2015, the Department determined that AmCane and Imperial had standing to request continuation of this investigation and, as a result, published a continuation notice on May 4, 2015.<sup>6</sup> On September 23, 2015, the Department issued a final affirmative determination in the AD investigation.<sup>7</sup> On November 16, 2015, the ITC published its final affirmative finding that an industry in the United States is materially injured by reason of imports of sugar from Mexico.<sup>8</sup> Because the ITC determined that such injury did exist, consistent with section 734(f)(3)(B) of the Act, the AD Agreement remained in force.<sup>9</sup>

On December 30, 2015, Imperial and AmCane submitted requests for an administrative review of the AD Agreement.<sup>10</sup> On December 31, 2015, the American Sugar Coalition and its Members (Petitioners) filed a request for an administrative review of the AD Agreement.<sup>11</sup>

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<sup>3</sup> See *Sugar From Mexico: Continuation of Antidumping and Countervailing Duty Investigations*, 80 FR 25278, 25279 (May 4, 2015) (Continuation Notice).

<sup>4</sup> See *id.*

<sup>5</sup> See *id.*, at 25280.

<sup>6</sup> See *id.*

<sup>7</sup> See *Sugar from Mexico: Final Determination of Sales at Less Than Fair Value*, 80 FR 57341 (September 23, 2015) (*Final LTVF Determination*).

<sup>8</sup> See *Sugar from Mexico* (Investigation Nos. 701–TA–513 and 731–TA–1249 (Final)), 80 FR 70833 (November 16, 2015).

<sup>9</sup> See also *Final LTVF Determination*, 80 FR at 57342. Pursuant to section 734(f)(3)(B) of the Act, the AD Agreement remains in force the Department shall not issue an antidumping order so long as (1) the AD Suspension Agreement remains in force, (2) the AD Suspension Agreement continues to meet the requirements of subsections (c) and (d) of the Act, and (3) the parties to the AD Suspension Agreement carry out their obligations under the AD Suspension Agreement in accordance with its terms.

<sup>10</sup> See Letter from Imperial, “Sugar from Mexico, Inv. No. A-201-845 – Request for Administrative Review of the Agreement Suspending the Antidumping Duty Investigation,” December 30, 2015; Letter from AmCane, “Sugar from Mexico: Request for Administrative Reviews,” December 30, 2015.

The review of the AD Agreement was initiated on February 9, 2015, for the December 19, 2014 through November 30, 2015, period of review.<sup>12</sup> On June 2, 2016, the Department selected mandatory respondents,<sup>13</sup> the two largest signatories, Central Motzorongo S.A. de C.V. and its affiliates (Motzorongo) and Fideicomiso Ingenio San Cristobal and its affiliates (San Cristobal).

The Department has conducted this review in accordance with section 751(a)(1)(C) of the Act, which specifies that the Department shall “review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.” Pursuant to the AD Agreement, each signatory producer/exporter individually agrees that it will not sell the subject merchandise at less than the reference prices established in Appendix I to the AD Agreement.<sup>14</sup> Each signatory producer/exporter also individually agrees that, for each entry, 85 percent of the dumping determined in the investigation will be eliminated.<sup>15</sup> In addition, in this review, the Department is reassessing whether suspension of the AD Agreement is in the “public interest,” including the availability of supplies of sugar in the U.S. market, and whether “effective monitoring” is practicable.

After reviewing the information received to date from the respondent companies in their questionnaire responses, there is some indication that certain individual transactions of subject merchandise may not be in compliance with the terms of the AD Agreement, and further, that the AD Agreement may no longer be meeting all of the statutory requirements, as set forth in

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<sup>11</sup> See Letter from American Sugar Coalition and its Members, “Sugar from Mexico: Request for Administrative Review,” December 31, 2015.

<sup>12</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 6832 (February 9, 2016).

<sup>13</sup> See Department Memorandum, “First Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico: Questionnaire Issuance,” June 2, 2016.

<sup>14</sup> See Agreement, 79 FR 78040, 78041.

<sup>15</sup> See *id.*, at 78042.

sections 734(c) and (d) of the Tariff Act of 1930 (the Act). However, based on the Department's review to date of the record information, we do not yet find a sufficient basis to make a reliable judgment as to whether the respondents have adhered to the terms of the AD Agreement and whether the AD Agreement continues to meet the relevant requirements of the Act for such agreements. As detailed above, the Department found it necessary, late in the review, to seek additional information, i.e., in supplemental questionnaires issued to the two respondents on November 18, 2016, in order to reach a determination as to whether the Agreement is functioning as intended, is in the public interest and whether it can be effectively monitored. For a full description of the methodology underlying our conclusions, see Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a business proprietary document and a public version is made available via Enforcement & Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and in the Department's Central Records Unit, located in room 18022 of the main Department of Commerce building. In addition, the public version of the Preliminary Decision Memorandum can be found on the Internet at <http://www.trade.gov/enforcement>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

#### Public Comment

As discussed above, the Department needs additional information before making a definitive preliminary finding. Therefore, absent the issuance of a revised suspension agreement, we intend to issue our post-preliminary findings on these issues as soon as practicable. The

comment period on these preliminary results as well as the post-preliminary results will be established at the release of the post-preliminary results. At that time interested parties will have the opportunity to submit case and rebuttal briefs, as well as to request a hearing pursuant to 19 CFR 351.310(c).

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

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Paul Piquado  
Assistant Secretary for  
Enforcement and Compliance

November 29, 2016

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Date  
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